



COMMONWEALTH OF VIRGINIA

Commission on Youth

Temporary Placements of Children

September 8, 2015

Will Egen

Study Mandate



- During the 2015 General Assembly Session, Delegate Kathy J. Byron introduced House Bill 2034. It provides that a parent or legal custodian of a minor may delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for a period not exceeding one year. The bill also creates a licensing exemption for private, nonprofit organizations that do not accept public funds and that assists parents with the process of delegating parental and legal custody of their children.
- The intent of the legislation is to provide parents with support and respite during difficult times while having children stay in a safe environment with the ultimate goal of reunification.

Study Mandate (cont...)



- Members of the House Courts of Justice Committee reviewed the bill and determined that further study would be appropriate. The Committee passed the bill by indefinitely and requested that the Commission on Youth study the provisions set forth in House Bill 2034 and report its findings and recommendations.
- Commission on Youth designed a study plan to consider the implications of various policy options related to the temporary delegation of parental or legal custodial powers.

Study Activities



- Site visits and stakeholder interviews
- National and state literature reviews
- Review other states legislation/statutes
- Review Virginia laws and regulations
- Identify concerns and solicit feedback on proposed recommendations
- Prepare draft findings and recommendations

Stakeholders



- Virginia Supreme Court/Office of the Executive Secretary
- Guardians Ad Litem
- Family Law Attorneys
- Virginia Juvenile Court Judges/Court representatives
- Advocacy organizations
- Children's Home Society
- Department of Social Services
- Trinity Family Life Center
- Voices for Virginia's Children
- Family Law Coalition
- Virginia Poverty Law Center
- Safe Families for Children
- Office of the Attorney General
- Patrick Henry Family Services
- VBA Commission on the Needs of Children
- Be Strong Families
- The Foundation for Government Accountability
- Casey Family Programs
- Local Departments of Social Services

Identified Issues



- Virginia law requires licensing of child welfare agencies as well as independent foster homes in accordance with § 63.2-1701 of the *Code of Virginia*.
- Permanency efforts are implemented in part through the Promoting Safe and Stable Families Program, which includes family support services designed to help parents care for their children's well-being before a crisis occurs.
- Kinship diversion is considered first in Virginia, which goes in support of increased acceptance of working with relatives and on prevention services. Relatives also may accept children under formal kinship care arrangements, but first must qualify as foster parents; however, these parents are entitled to additional support and subsidies.

Identified Issues (cont...)



- In 2014, SB 284 (Howell) was approved by the General Assembly and Governor. The bill directs the Department of Social Services to review current policies governing kinship care placements and propose regulations governing kinship care placements and report its recommendations and findings to the Governor and the General Assembly by January 1, 2016.
- Section 22.1-3(4) of the *Code of Virginia* currently acknowledges the right of an adult relative who provides informal kinship care to access free public education for the child where the adult resides by utilizing an affidavit or power of attorney.

Virginia Child Abuse and Neglect



- Total completed reports on abuse and neglect have remained stable over the past few years, although outcomes have varied.

Children in completed reports SFY 2010 to SFY 2014

Fiscal Year	Founded	Unfounded	Family Assessment	Total
2014	6,792	9,608	33,736	50,136
2013	6,205	8,848	36,293	51,346
2012	6,365	8,974	37,336	52,675
2011	6,116	8,627	34,876	49,619
2010	6,234	8,187	34,185	48,606

- Family Assessment means that a Child Protective Services worker developed a written safety plan and provided or arranged for services, if needed.

Virginia Child Abuse and Neglect (cont...)



- Abuse and neglect referral types include physical neglect, physical abuse, sexual abuse, mental abuse/neglect, and medical neglect.
 - In SFY 2014 56.45% of maltreatment in founded investigations was due to physical neglect.
 - The 4-11 age group represented the largest amount of abused children at 42.58%.
 - 67.02% of all abused children were white and 32.17% were black.
- The most recent 2013 data compiled by the U.S. Health and Human Services shows that from 2009-2013:
 - Children who received an investigation or alternative response increased by 5% in Virginia, compared to 4.6% nationally
 - Children determined to be victims decreased by 1.5% in Virginia, compared to 3.8% nationally.

Prevention Services in Virginia



- **Children Services System Transformation** – In 2007 Virginia launched the Strengthening Families Initiative which set forth a service delivery model that focuses on strengthening the family unit.
- **Early Prevention Services** – Services given prior to or in the absence of a child protective services.
- **Foster Care Prevention Services** – These services are available to children who are abused or neglected or in need of services as defined by § 63.2-100 and § 16.1-228 receptively.
 - DSS does not consider out-of-home placements to be prevention services.
- **Funding** – A variety of funding streams are available depending on the type of prevention service being provided. Section 2.2-5211 establishes the funds available for Foster Care Prevention Services.

Continuum of Prevention



Service →				
Early Prevention Prior To A Valid CPS Referral		Prevention Provided After Receipt Of A Current, Valid CPS Referral		
Primary Public Education and Awareness Prevention Services	Secondary Prevention Services	Tertiary Prevention Services provided through Child Protective Services	Secondary or Tertiary Prevention services provided through Foster Care AFTER removal of a child	Secondary or Tertiary Prevention Services provided AFTER adoptive placement
Target Population →				
General public	<ul style="list-style-type: none"> • Groups of families and/or • Individual families at risk of abuse/neglect, and/or out of home care 	<ul style="list-style-type: none"> • Birth families who have suspected or confirmed abuse and/or neglect and • Alternative families identified by parents as caretakers to prevent removal and foster care placement 	<ul style="list-style-type: none"> • Potential foster families, • Approved foster families • Birth families whose children have been removed • Birth families whose children have been returned to them and • Foster care children in independent living arrangements 	<ul style="list-style-type: none"> • Potential adoptive families • Approved adoptive families • Birth families who may continue contact with children
Outcome →				
Helping children thrive / reducing the risk of abuse/neglect in the community and supporting families so that all children can remain safely at home	Reducing the risk of abuse/neglect in high risk groups or high risk individual families and increasing family stability	Reducing risk of future harm in birth families or other alternative families used to prevent foster care and increasing family stability	Helping children heal and reducing risk of future harm through reabuse or placement disruptions in birth and foster families	Helping children heal and reducing risk of future harm through reabuse or placement disruption / dissolution in adoptive families

Temporary Placements in Virginia



- **CSA Parental Agreement** – An agreement between a parent and a public agency other than the LDSS. It is used to address children's service needs
- **Respite Care/Short-Term Foster Care** – For short-term relief to families caring for children. This type of service can be provided up to 30 days a year.
- **Temporary Entrustment** – Parents voluntarily request that the LDSS, a child welfare agency, or independent foster home take legal and physical custody of their child for a temporary period, up to 90 days.
- **Placing Agreement** – A placing agreement allows a parent to place their child in an independent foster home for 180 days or fewer without giving up legal custody.

Other States' Initiatives



- Safe Families was founded in Chicago in 2002.
- The goal is to support children in safe homes through family support, stabilization, and child abuse prevention.
 - The program has done over 17,000 placements since its founding
 - Average stay in a Safe Families home is 6 weeks.
- Currently there are 19 States with Safe Families organizations and associated churches.
- Three states have passed Safe Families laws: Oklahoma (HB 2536 – 2014), Oregon (SB 991 – 2010), and Wisconsin (AB 30 – 2011).
- Nine states including Virginia have considered Safe Families laws but have not passed them.

Other States' Initiatives



- Laws based on the Safe Families model have carved out a licensing exemption.

Oklahoma – HB2536	Oregon – SB991	Wisconsin – AB30
<p>“The attorney-in-fact...shall not be subject to the requirements of the Oklahoma Child Care Facilities Licensing Act.” The statute also adds, “under a delegation of powers...the parties shall not be subject to any of the requirements or licensing regulations for foster care.”</p>	<p>Licensing requirements do not apply to: “Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney, “ or “any individual or home of an individual providing respite services for parents pursuant to a properly executed power of attorney.”</p>	<p>“A relative, a guardian of a child, or a person delegated care and custody of a child under [delegation of power by parent] who provides care and maintenance for the child is not required to obtain the license specified in this section.” An entity is defined as “an organization that facilitates delegations of the care and custody of children under [delegation of power by parent].”</p>

- Approximately 23 other states have some form of temporary delegation of authority by a power of attorney law. 7 – one year; 12 – 6 months; 4 – alternate format

Retrieved from <https://www.sos.ok.gov/documents/legislation/54th/2014/2R/HB/2536.pdf>.

Retrieved from <https://olis.leg.state.or.us/liz/2010S1/Downloads/MeasureDocument/SB991/Enrolled>.

Retrieved from <https://docs.legis.wisconsin.gov/2011/related/acts/87>.

2015 Introduced Legislation – HB 2034



- Joint Custody – As introduced the bill did not address joint legal custody. This was clarified in a substitute bill.
- Licensing Exemption – “No private nonprofit organization that does not accept public funds and that assists parents with the process of delegating parental or custodial powers of their children shall be required to obtain a license as a child-placing agency.”
- Power of Attorney – A parent may execute a power of attorney for a period not to exceed one year. The substitute version adds a provision regarding the filing of the POA.
- Safety and Training – These components are not addressed in the bill.

Safety and Training in Virginia



- Providers and/or staff of licensed independent foster homes and child placing agencies must undergo background checks which include:
 - The results of a criminal history record check conducted by the Virginia State Police through the Central Criminal Records Exchange;
 - The results of a search of Virginia's Child Protective Services central registry; and
 - A sworn disclosure statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges.
- Background checks are detailed in 22 VAC 40-191.

Safety and Training in Virginia (cont...)



- Both independent foster care providers and child placing agencies are required to follow training regulations:
 - Independent foster home: A provider must complete a parent orientation and training session within six months of licensure and obtain a first aid certification prior to licensure. Also, a provider must attend at least 20 hours of related training each year.
 - Child placing agency: As a condition of initial approval each home provider must complete all required training. The training must be relevant to the needs of children and families. Also, each home provider shall receive additional training annually and at other times if determined to be necessary by the licensee.
 - *and* - A staff person who works with children must undergo an orientation within 30 days of employment. Also staff must complete child-placing agency's pre-service training for adoptive and foster parents within 1 year of employment.



Policy Considerations & Recommendations

Policy Considerations



- Prevention services are meant to educate and help the general population as well as direct services to high risk groups and individual families at risk of maltreatment or out of home care. Does a temporary placement model fit this framework?
- How are the best interests of the child being addressed when a child is temporarily placed?
- What length of time is acceptable for a child to remain in a temporary placement?
- There are large costs when prevention services are not provided. One often cited study indicated that in the U.S. “the estimated average lifetime cost per victim of nonfatal child maltreatment is \$210,012 in 2010 dollars.”

Summary From Study Activities



- COY heard from more than a couple of stakeholders that they are not opposed to the Safe Families model, but they want to see safeguards, training and background checks, in place.
- One interviewee wanted to find the best way to properly inject resources into the community and highlighted the importance of cultural competency.
- Staff also heard from a number of stakeholders who felt that one year was too long to transfer rights regarding child and might not be in the best interest of the child.
- We heard from one interviewee that the local boards embrace a family's right to make decisions for themselves regarding diversion.

Summary From Study Activities (cont...)



- Virginia has made a recent push to reduce foster care and increase kinship care diversion
 - HB 718 (Peace) – 2010: A bill to request the Governor and DSS work together to reduce the number of children in foster care by 25% within 10 years.

Snapshot of Children in Foster Care in Virginia – As of July 1					
2010	2011	2012	2013	2014	2015
6,354	5,726	5,334	5,040	5,147	5,219

- Annie E. Casey study: This 2011 study looked at kinship diversion practices in Virginia. It proposed a number of recommendations, including develop and adopt clear state-level policy guidelines and provide caseworkers with training and tools for clients in order to inform and advise families on available benefits and options.
- SB 284 (Howell) – 2014: A bill to request that DSS review current policies governing kinship care placements and develop recommendations for regulations.

Proposed Recommendations



Recommendation 1: Request a budget amendment in the 2016 budget (caboose) and new biennial budget for the Department of Social Services to partner with Patrick Henry Family Services to implement a pilot program in the area encompassing Planning District 11 (Amherst, Appomattox, Bedford, Campbell Counties and the City of Lynchburg) for the temporary placements of children for children and families in crisis.

This pilot program would allow a parent or legal custodian of a minor, with the assistance of Patrick Henry Family Services, to delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for temporary placement for a period that is not greater than 90 days. This program would allow for an option of a one-time 90 day extension.

Proposed Recommendations



Recommendation 1 (cont...): DSS shall ensure that this pilot program meets the following specific programmatic and safety requirements outlined in 22 VAC 40-131 and 22 VAC 40-191.

- The pilot program organization shall meet the background check requirements described in 22 VAC 40-191.
- The pilot program organization shall provide pre-service and ongoing training for temporary placement providers and staff (22 VAC 40-131-210 and 22 VAC 40-131-150).

Proposed Recommendations



Recommendation 1 (cont...):

- The pilot program organization shall develop and implement written policies and procedures for governing active and closed cases, admissions, monitoring the administration of medications, prohibiting corporal punishment, ensuring that children are not subjected to abuse or neglect, investigating allegations of misconduct toward children, implementing the child's back-up emergency care plan, assigning designated casework staff, management of all records, discharge policies, and the use of seclusion and restraint (22 VAC 40-131-90).

Proposed Recommendations



Recommendation 1 (cont...): The Department of Social Services shall evaluate the pilot program and determine if this model of prevention is effective. A report of the evaluation findings and recommendations shall be submitted to the Governor and Chairs of the House Appropriations and Senate Finance Committees as well as the Commission on Youth by December 1, 2017.



COMMONWEALTH OF VIRGINIA

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Public Comment:

Written public comment must be received by 5:00 p.m. Tuesday, October 13, 2015.

Submission instructions available online at (vcoy.virginia.gov) after the meeting and in the back of the room.